
By: **Delegates Morhaim, Busch, Barve, Jones, Hurson, Owings, Bromwell,
Bronrott, V. Clagett, Donoghue, Goldwater, Hammen, Hubbard, Kach,
Moe, Murray, Nathan-Pulliam, Oaks, Petzold, Rosenberg, Rudolph,
Sophocleus, Weldon, and Zirkin**

Introduced and read first time: February 5, 2004

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Procurement - Debarment - Causes**

3 FOR the purpose of authorizing the debarment of certain persons that are debarred
4 under certain federal regulations; providing for the reinstatement of certain
5 debarred persons; and generally relating to debarment from State contracts.

6 BY repealing and reenacting, with amendments,
7 Article - State Finance and Procurement
8 Section 16-203 and 16-310(a) and (b)
9 Annotated Code of Maryland
10 (2001 Replacement Volume and 2003 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article - State Finance and Procurement**

14 16-203.

15 (a) A person may be debarred from entering into a contract with the State if
16 the person, an officer, partner, controlling stockholder or principal of that person, or
17 any other person substantially involved in that person's contracting activities has:

18 (1) been convicted under the laws of the State, another state or the
19 United States of:

20 (i) a criminal offense incident to obtaining, attempting to obtain, or
21 performing a public or private contract, except as provided in § 16-202; or

22 (ii) fraud, embezzlement, theft, forgery, falsification or destruction
23 of records, or receiving stolen property;

1 (2) been convicted of a criminal violation of an antitrust statute of the
2 State, another state, or the United States;

3 (3) been convicted of a violation of the Racketeer Influenced and Corrupt
4 Organization Act, or the Mail Fraud Act, for acts in connection with the submission of
5 bids or proposals for a public or private contract;

6 (4) been convicted of a violation of § 14-308 of this article;

7 (5) been convicted of conspiracy to commit any act or omission that
8 would constitute grounds for conviction under any of the laws or statutes described in
9 paragraphs (1), (2), (3), or (4) of this subsection; or

10 (6) been found civilly liable under an antitrust statute of the State,
11 another state, or the United States for acts or omissions in connection with the
12 submission of bids or proposals for a public or private contract.

13 (b) A person may be debarred from entering into a contract with the State if,
14 during the course of an official investigation or other proceedings, the person, an
15 officer, partner, controlling stockholder or principal of that person, or any other
16 person substantially involved in that person's contracting activities has admitted, in
17 writing or under oath, an act or omission that constitutes grounds for conviction or
18 liability under any law or statute described in subsection (a) of this section.

19 (C) A PERSON MAY BE DEBARRED FROM ENTERING INTO A CONTRACT WITH
20 THE STATE IF THE PERSON, AN OFFICER, PARTNER, CONTROLLING STOCKHOLDER OR
21 PRINCIPAL OF THAT PERSON, OR ANY OTHER PERSON SUBSTANTIALLY INVOLVED IN
22 THAT PERSON'S CONTRACTING ACTIVITIES HAS BEEN DEBARRED FROM FEDERAL
23 CONTRACTS UNDER THE FEDERAL ACQUISITION REGULATIONS, AS PROVIDED IN 48
24 C.F.R. CHAPTER 1.

25 [(c)] (D) A person may be debarred from entering into a contract with the
26 State:

27 (1) if the Board finds that the person was established or operates in a
28 manner designed to evade the application of this title or to defeat the purpose of this
29 title;

30 (2) if the person is a successor, assignee, subsidiary, or affiliate of a
31 person who is debarred or suspended;

32 (3) for one of the following violations of a contract provision if the Board
33 believes it to be serious enough to justify debarment:

34 (i) the deliberate failure, without good cause, to perform in
35 accordance with the specifications, or within the time limit, provided in a contract; or

36 (ii) within the preceding 5 years, the failure to perform or of
37 unsatisfactory performance in accordance with the terms of one or more contracts,

1 unless the failure to perform or unsatisfactory performance was caused by acts
2 beyond the control of the person; or

3 (4) for any other cause that the Board determines to be so serious as to
4 affect the integrity of the procurement process.

5 16-310.

6 (a) (1) If the conviction that is the basis for a debarment or suspension is
7 reversed or otherwise rendered void, the debarment or suspension terminates
8 automatically.

9 (2) IF THE FEDERAL DEBARMENT THAT IS THE BASIS FOR A STATE
10 DEBARMENT OR SUSPENSION IS REVERSED OR OTHERWISE RENDERED VOID, THE
11 STATE DEBARMENT OR SUSPENSION TERMINATES AUTOMATICALLY.

12 (b) (1) Any person debarred under § 16-202 of this title may, after a period
13 of 5 years from the date of the debarment, petition the Board for removal of the
14 debarment.

15 (2) Any person debarred under § 16-203 (A), (B), OR (D) of this title may
16 petition the Board for removal of the debarment, after the expiration of:

17 (i) one-half of the period of debarment; or

18 (ii) 5 years.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
20 effect October 1, 2004.